

Message Text

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ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
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O 102333Z AUG 76
FM USMISSION USUN NY
TO SECSTATE WASHDC IMMEDIATE 8588

S E C R E T SECTION 1 OF 5 USUN 3172

STADIS////////////////////////////////////

EXDIS

FOR D/LOS

FROM US DEL LOS

E.O. 11652: EXEMPT GDS
TAGS: PLOS
SUBJ: LOS - VISIT FROM THE SECRETARY

1. FOLLOWING IS USSR COUNTRY PAPER FOR SECRETARY'S VISIT
AS WELL AS ONE FOR JAPAN.

USSR

BACKGROUND:

THE U.S. AND USSR HAVE COOPERATED CLOSELY SINCE THE
START OF THE LOS NEGOTIATIONS DIRECTLY AND THROUGH THE GROUP
OF 5. WE ARE NOW REACHING THE POINT WHERE MOST OF OUR COMMON
NAVIGATIONAL OBJECTIVES ARE BEING REALIZED, AND SUBSTANTIVE
AND TACTICAL DIFFERENCES BETWEEN US ARE INCREASINGLY DOMINATING
THE RELATIONSHIP. WHILE EACH SIDE HAS, OF COURSE, PROMOTED ITS
OWN SUBSTANTIVE INTERESTS, IN GENERAL, EACH SIDE HAS REFRAINED
FROM TRYING TO USE THE CONFERENCE TO HURT THE OTHER.

COMMITTEE I.

SECRET

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THE SOVIET UNION AND THE U.S. HAVE COOPERATED EFFECTIVELY
IN COMMITTEE I FOR SEVERAL YEARS. WHEN OUR POSITIONS DIFFER,
HOWEVER, THE SOVIET UNION DOES NOT HESITATE TO TAKE WHATEVER
ACTION IT DEEMS NECESSARY TO PROTECT ITS NATIONAL INTERESTS.

THE SAME CAN BE SAID OF US. AS YOU KNOW, WE HAVE DIFFERENCES WITH THE USSR IN COMMITTEE I, THE MOST IMPORTANT OF WHICH IS THEIR STRONG SUPPORT FOR A QUOTA OR ANTI-MONOPOLY PROVISION WHICH WOULD LIMIT U.S. ACCESS TO SEABED RESOURCES. (THE USSR HAS NOT BEEN INFORMED OF THE EXISTENCE OF THE SECRET BRAZIL GROUP- AT THE LAST SESSION).

A. QUOTA SYSTEM.

AS A FORMAL MATTER, THE STATED USSR POSITION IS THAT ALL STATES SHOULD HAVE AN EQUAL AMOUNT OF CONTRACTS. THEY REALIZE THAT THIS POSITION IS UNTENABLE AND HAVE INDICATED A WILLINGNESS TO EXPLORE OTHER APPROACHES, PROVIDED THEY ARE EFFECTIVE LIMITATIONS AND NOT COSMETIC. THEY APPEAR PREPARED TO SUPPORT A FRENCH PROPOSAL WHICH WOULD PLACE AN ABSOLUTE LIMIT ON THE AMOUNT OF PRODUCTION THAT ANY ONE STATE OR ITS NATIONALS COULD HAVE UNDER CONTRACT AT ANY TIME. THEY WOULD ALSO PUT AN ABSOLUTE LIMIT ON THE TOTAL AREA WHICH ANY ONE STATE COULD HAVE UNDER CONTRACT AT ANY ONE TIME (THE DIFFERENCE BETWEEN THESE TWO IDEAS IS THAT, IF THE U.S. WERE LIMITED TO 25 PERCENT OF THE TOTAL AREA OF THE SEABED, IT MIGHT STILL BE ABLE TO HAVE ALL THE CONTRACTS WHICH WOULD BE UNDER EXPLOITATION AT ANY ONE TIME, SINCE 20 PERCENT OF THE INTERNATIONAL SEABED AREA COULD ACCOUNT FOR TOTAL PRODUCTION OF THE SEABED FOR MORE THAN A CENTURY -- HENCE THE LIMIT ON PRODUCTION). THE JAPANESE HAVE A Milder POSITION, BUT WOULD PROBABLY SUPPORT THE FRENCH. THE USSR APPEARS WILLING TO DEFER PUBLIC CONFRONTATION ON THIS ISSUE BECAUSE THE COMMITTEE HAS MANY OTHER IMPORTANT QUESTIONS BEFORE IT ON WHICH WE AND THEY HAVE A COMMON POSITION. NONTHELESS, THE WORK PROGRAM OF THE COMMITTEE IS SUCH THAT THE ISSUE COULD BE RAISED FOR DEBATE BY OTHER COUNTRIES WISHING TO SEE A CONFRONTATION BETWEEN THE U.S. AND THE USSR IN THE NEXT FEW WEEKS. WE HAVE AGREED IN THE GROUP OF FIVE TO TAKE ALL NECESSARY, CONCERTED STEPS IN ORDER TO AVOID SUCH A DEBATE AS LONG AS POSSIBLE.

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THE U.S. CONTINUES TO REJECT ANY AND ALL PROPOSALS FOR A QUOTA SYSTEM WHICH LIMITS U.S. ACCESS IN WHATEVER FORM THEY ARE MADE, EITHER BY LIMITS ON SITES PER STATE, OR ON PRODUCTION BY INDIVIDUAL STATES. WE HAVE INDICATED TO THE SOVIETS AND OTHER WITHIN THE GROUP OF FIVE THAT THIS IS A NO-SIGN ISSUE. WE FEEL ANY LIMITATION ON ACCESS IN THE TREATY DESIGNED SPECIFICALLY TO PROTECT OTHER HIGHLY INDUSTRIALIZED COUNTRIES WILL CREATE SIGNIFICANT RATIFICATION PROBLEMS IN CONGRESS.

THE SOVIETS HAVE CONSISTENTLY MAINTAINED THAT THEY WILL NOT AGREE TO A LOS TREATY WHICH DOES NOT CONTAIN AN EFFECTIVE "ANTI-MONOPOLY" CLAUSE GOVERNING DEEP SEA MINING.

THEY HAVE SHOWN SOME FLEXIBILITY ON WHAT FORM SUCH A CLAUSE MIGHT TAKE, BUT HAVE RULED OUT A PURELY COSMETIC SOLUTION.

B. DISPUTE SETTLEMENT.

DESPITE EARLIER AGREEMENT WITH THE USSR ON THE DISPUTE SETTLEMENT ASPECTS OF CT. I WORK, THEY HAVE RECENTLY GIVEN US EVIDENCE OF BACKSLIDING, PARTICULARLY WITH RESPECT TO THE RIGHT OF PRIVATE PARTIES (I.E., US COMPANIES HOLDING CONTRACTS WITH THE SEABED AUTHORITY) FOR ACCESS TO THE TRIBUNAL. WE ARE DISTURBED ABOUT THIS BACKSLIDING BECAUSE PRIVATE PARTY ACCESS TO THE TRIBUNAL IS ONE KEY ELEMENT IN OUR ABILITY TO OBTAIN SUPPORT FROM INDUSTRY AND THE CONGRESS FOR RATIFICATION.

WE HAVE INSISTED SINCE THE BEGINNING OF THE LAW OF THE SEA NEGOTIATIONS IN 1970 THAT PRIVATE PARTIES MUST HAVE ACCESS TO THE TRIBUNAL OF THE SEABED AUTHORITY, WITHOUT GOING THROUGH THE CUMBERSOME BUREAUCRATIC PROCEDURES AND POLITICAL DECISIONS THAT WOULD EXIST IF THEY WERE REQUIRED TO GET THEIR OWN GOVERNMENT TO BRING A SUIT AGAINST THE SEABED AUTHORITY. THE US OCEAN MINING INDUSTRY HAS MADE THIS ONE OF THEIR VITAL ISSUES IN CT. I AND WOULD FIGHT RATIFICATION IF THEY DO NOT OBTAIN SATISFACTION.

THE COUNCIL.

PROBLEM

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AT THE LAST GROUP OF FIVE MEETING IN LONDON, THE USSR EXPRESSED STRONG RESERVATIONS ABOUT WEIGHTED VOTING, DESPITE THE FACT THAT THEY LIKE WE, WOULD HAVE GREAT VOTING POWERS SINCE THEY ARE LARGE CONSUMERS AND PRODUCERS OF THE METALS INVOLVED. THEY ACKNOWLEDGED THAT WEIGHTED VOTING WOULD GIVE EFFECTIVE VOTING PROTECTION, BUT WERE RELUCTANT TO AGREE TO A SYSTEM IN WHICH AN INTERNATIONAL BODY COULD QUESTION THE RELIABILITY OF SOVIET PRODUCTION AND CONSUMPTION STATISTICS. THEY ALSO PLACE THE GREATEST EMPHASIS ON THE NEED FOR A DISPROPORTIONATELY HIGH NUMBER OF SOCIALIST SEATS ON THE COUNCIL - THEY WANT 6 OUT OF THE 36. IN OUR JUDGMENT, THEY WOULD GIVE UP ANY SPECIAL VOTING PROTECTION SUCH AS WEIGHTED VOTING, IF THEY COULD HAVE 6 SEATS FOR THE SOCIALIST GROUP.

WE FAVOR WEIGHTED VOTING AT THE MINIMUM FOR CERTAIN IMPORTANT ECONOMIC DECISIONS IN THE COUNCIL. WE ARE GOING TO BE FIGHTING A TREMENDOUS UP-HILL BATTLE IN THE CONFERENCE AND WILL NEED THE STRONG UNSWERVING SUPPORT OF THE USSR.

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ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W

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TO SECSTATE WASHDC IMMEDIATE 8589

S E C R E T SECTION 2 OF 5 USUN 3172

STADIS////////////////////////////////

EXDIS

FOR D/LOS

FROM US DEL LOS

THE USSR MIGHT FAVOR WIEGHTED VOTING FOR SELECTED ECONOMIC DECISIONS IN THE COUNCIL, IF WE CAN SOLVE THEIR PROBLEM OF INDEPENDENT VERIFICATION OF USSR STATISTICS. HOWEVER, THEY HAVE TOLD US THEY WILL OPPOSE WEIGHTED VOTING IF IT APPLIES TO ALL DECISIONS OF THE COUNCIL -- THEY WANT US TO RETAIN THE COLLEGIAL SYSTEM FOR COUNCIL DECISIONS OTHER THAN THE ART. 9 DECISION (PRODUCTION CONTROL).

COMMITTEE II.

THE US AND USSR HAVE SIMILAR INTERESTS REGARDING NAVIGATION, STRIATS, AND OTHER SECURITY ISSUES, INCLUDING THE HIGH SEAS STATUS OF THE ECONOMIC ZONE. THEY OPPOSE US ON THE NAVIGATION-RELATED ISSUE OF THE RIGHT OF A COASTAL STATE TO SET VESSEL POLLUTION CONTROL STANDARDS IN THE TERRITORIAL SEA (OUTSIDE STRAITS).

THEY GENERALLY ACCEPT THE FISHERIES ARTICLES, RELUCTANTLY, BUT REALISTICALLY. UPCOMING BILATERAL FISHERIES NEGOTIATIONS CAN BE EXPECTED TO BE DIFFICULT, HOWEVER.

ON THE CONTINENTAL SHELF, THEY REMAIN FORMALLY OPPOSED
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TO EXTENDING COASTAL STATE JURISDICTION BEYOND 200 MILES TO THE EDGE OF THE CONTINENTAL MARGIN (PREFERRING TO CUT IT OFF CLOSER TO SHORE AT A DEPTH OF 500 METERS). HOWEVER, THEY ARE NOT VERY ACTIVE ON THE MATTER.

THE SOVIETS HAVE PUBLICLY HINTED THAT THEY WILL SUPPRT

THE ARABS IF A FIGHT DEVELOPS OVER STRAITS CONNECTING THE HIGH SEAS TO THE TERRITORIAL SEA (TIRAN/AQABA). THE CURRENT TEXT, PROVIDING FOR NON-SUSPENDABLE INNOCENT PASSAGE, IS BASED ON A SOVIET PROPOSAL, BUT THEY SAID THEY COULD RECONSIDER THEIR POSITION IN THE FACE OF ARAB OPPOSITION.

COMMITTEE III.

A. MARINE SCIENTIFIC RESEARCH

IN THE PAST, THE USSR HAS SUPPORTED US IN OUR EFFORTS TO AVOID A CONSENT REQUIREMENT FOR MARINE SCIENTIFIC RESEARCH. HOWEVER, WE HAVE KNOWN FOR SOME TIME THAT THEY HAVE SERIOUS CONCERNS REGARDING SCIENTIFIC RESEARCH OFF THEIR COAST. MOSTLY FOR SECURITY REASONS, BUT ALSO BECAUSE OF A DESIRE TO PROTECT THEIR CONTINENTAL SHELF RESOURCES, THEY HAVE WANTED TO BE ABLE TO CONTROL SCIENTIFIC RESEARCH OFF THE SOVIET COAST. IT IS NOW CLEAR THAT THEY ARE WILLING TO ACCEPT A CONSENT REGIME AND, SPECIFICALLY, THAT THEY ARE WILLING TO ACCEPT THE REVISED TEXT. THEIR REASONS ARE THEIR OWN DESIRE TO CONTROL RESEARCH OFF THEIR COAST AND A POLITICAL DECISION TO MAKE A CONCESSION TO DEVELOPING COUNTRIES ON THIS ISSUE IN HOPES OF LESSENING DEVELOPING COUNTRY DEMANDS IN OTHER AREAS, SPECIFICALLY COASTAL CONTROLS ON VESSEL-SOURCE POLLUTION.

OUR CONCERNS DIFFER FROM THEIRS. WE FEEL THAT OUR COASTAL RESOURCE CONCERNS ARE PROTECTED BY THE REQUIREMENTS OF PARTICIPATION AND DATA SHARING WHICH WE SUPPORT. SECONDLY, SINCE WE DO MORE OPEN RESEARCH THAN ANY OTHER COUNTRY, IT IS VALUABLE FOR US TO HAVE ACCESS FOR SCIENTIFIC RESEARCH TO THE AREAS OFF OTHER COASTS. THE SOVIETS ARE PRIMARILY CONCERNED WITH PROTECTING THEIR OWN COAST AND DO MUCH LESS SCIENTIFIC RESEARCH OFF OTHER COASTS THAN WE DO. ALSO, THEY PROBABLY FIND IT EASIER TO OPERATE
SECRET

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CLADESTINELY.

WE HAVE MADE TWO STRONG INTERVENTIONS IN THE COMMITTEE ON THIS ISSUE TO INDICATE THAT THE REVISED TEXT IS UNACCEPTABLE AND THAT THE CHANCES OF U.S. RATIFICATION OF THE TREATY ARE CALLED INTO QUESTION IF THERE ARE NOT MAJOR CHANGES TO THE TEXT. A USSR REPRESENTATIVE HAS TOLD US THAT THEY DO NOT BELIEVE THIS ISSUE IS THAT IMPORTANT TO THE US AND THAT IT WILL NOT AFFECT RATIFICATION BY THE US.

OUR OBJECTIVES FOR THIS MEETING ARE TO CONVINCE THE SOVIETS THAT THE ISSUE IS IMPORTANT, THAT WE CANNOT ACCEPT THE REVISED TEXT, AND THAT THE STRONG OPPOSITION OF THE U.S. SCIENTIFIC COMMUNITY POSES A SERIOUS THREAT TO RATIFICATION.

ALSO, THE USSR HAS INDICATED A WILLINGNESS TO ACCEPT A COASTAL STATE RIGHT TO PROHIBIT SCIENTIFIC RESEARCH FOR SECURITY (PEACEFUL PURPOSES) REASONS; WE MUST DISSUADE THEM OF THAT.

MARINE POLLUTION

THE USSR HAS SUPPORTED A RESTRICTION ON COASTAL STATE AUTHORITY TO ESTABLISH REGULATIONS FOR THE CONTROL OF VESSEL POLLUTION IN THE TERRITORIAL SEA. THEY WANT NO COASTAL STATE REGULATIONS REGARDING CONSTRUCTION, DESIGN, EQUIPMENT OR MANNING OF VESSELS. WE OPPOSE ANY SUCH RESTRICTIONS (OUTSIDE STRAITS) EXCEPT THAT THE REGULATIONS MUST NOT HAMPER INNOCENT PASSAGE. THE USSR HAS RECENTLY INDICATED PRIVATELY SOME WILLINGNESS TO COMPROMISE ON THE ISSUE.

DISPUTE SETTLEMENT.

THE USSR IS, IN A BREAK FROM ITS TRADITIONAL POSITION, ACTIVELY SUPPORTING OBLIGATORY DISPUTE SETTLEMENT ENTAILING A BINDING DECISION, ESPECIALLY FOR FISHERIES. THE CURRENT TEXT OF PART IV SEEMS LARGELY ACCEPTABLE TO THE USSR BECAUSE IT SATISFIES THEIR INSISTENCE ON FOUR SPECIALIZED COMMISSIONS FOR FISHERIES, NAVIGATION, ENVIRONMENT AND SCIENCE IN A PROMINENT ROLE ALONGSIDE THE ICJ,
SECRET

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ARBITRATION AND THE LOS TRIBUNAL. THE SOVIETS ARE STRONGLY OPPOSED TO THE LATIN-LED COASTAL STATE EFFORT TO EXCLUDE ALL DISPUTES RELATED TO RESOURCES IN THE ECONOMIC ZONE BECAUSE OF THEIR DISTANT-WATER FISHERIES INTERESTS. HOWEVER, THERE REMAINS SOME AMBIGUITY IN SOVIET ATTITUDES ON DISPUTE SETTLEMENT; WE SHOULD EMPHASIZE THE INTERESTS OF MARITIME NATIONS IN ACHIEVING BINDING DISPUTE SETTLEMENT PROCEDURES.

TALKING POINTS:

COMMITTEE I -

--WE APPRECIATE THE CONSTRUCTIVE WHICH THE SOVIET UNION HAS TAKEN ON ALMOST ALL OUTSTANDING ISSUES IN THE COMMITTEE I ACTIVITIES AT THE LOS CONFERENCE AND HOPE IT WILL SUPPORT US ON CRITICAL OUTSTANDING ISSUES SUCH AS ASSEMBLY AND COUNCIL VOTING AND FUNCTIONING OF THE ENTERPRISE.

--NEVERTHELESS, THERE IS ONE SERIOUS OUTSTANDING PROBLEM BETWEEN US ON SEABEDS AND SEVERAL OTHER IMPORTANT DIFFERENCES.

A. QUOTAS

--OUR TECHNICAL EXPERTS HAVE CONCLUDED THAT THERE ARE
300-500 MINE SITES -- ENOUGH TO LAST FAR INTO THE
TWENTY-FIRST CENTURY OR LONGER. DEEP SEA MINING WILL
DEVELOP VERY SLOWLY. TECHNOLOGY WILL BE PRIMITIVE IN FIRST
APPLICATIONS REQUIRING LONG TESTING PERIODS. JAPAN, GERMANY,
AND OTHERS WILL MOVE ON VERY CLOSE AFTER U.S. CONSORTIUMS
WILL MAKE TECHNOLOGY AVAILABLE TO MANY COUNTRIES. THE
ENTERPRISE WILL HAVE THE TECHNOLOGY. ECONOMICS OF MINING
WILL BE CLEAR ONLY AFTER MANY YEARS OF IMPROVED EQUIPMENT
DEVELOPMENT.

--A QUOTA OR ANTI-MONOPOLY PROVISION WOULD SERIOUSLY
JEOPARDIZE THE CHANCE OF US RATIFICATION OF THE TREATY.

--A QUOTA OR ANTI-MONOPOLY POSITION WOULD FORCE AMERICAN
SECRET

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COMPANIES TO SEEK CONTRACTS UNDER THE AUSPICES OF OTHER
COUNTRIES, THUS REDUCING SUBSTANTIALLY POLITICALLY SECURE
SUPPLIES OF RAW MATERIALS, WHICH IS ONE OF OUR PRINCIPAL
OBJECTIVES IN C-1.

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INFO OCT-01 ISO-00 SSO-00 /026 W
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FM USMISSION USUN NY
TO SECSTATE WASHDC IMMEDIATE 8590

S E C R E T SECTION 3 OF 5 USUN 3172

STADIS////////////////////////////////////

EXDIS

FOR D/LOS

FROM US DEL LOS

-- AS WE PERCEIVE IT, SOVIET INTERESTS DO NOT REALLY
REQUIRE AN ANTI-MONOPOLY CLAUSE, WHILE SUCH A CLAUSE CAN
BADLY HURT U.S. INTERESTS. UNTIL THIS ISSUE AROSE, EACH OF
OUR DELEGATIONS THROUGH YEARS OF NEGOTIATION, HAS TRIED TO

HELP THE OTHER PROTECT ITS BASIC NATIONAL INTERESTS TO THE
EXTENT POSSIBLE.

-- WE SEE NO REALISTIC POSSIBILITY IN THE FORESEEABLE
FUTURE FOR CHANGING OUR POSITION ON THIS SUBJECT AND WOULD
HOPE THAT THE USSR COULD REVIEW ITS POSITION TO DETERMINE IF
ANY SERIOUS PRACTICAL DIFFICULTIES WOULD ARISE FROM ACCEP-
TING THE US POSITION.

B. DISPUTE SETTLEMENT

-- WE HAVE BEEN NEGOTIATING WITH THE USSR FOR FOUR YEARS
ON THE QUESTION OF DISPUTE SETTLEMENT IN CTE. I TO WORK OUT
AN ACCEPTABLE COMPROMISE ON THIS ISSUE. A YEAR AGO AT A
GROUP OF 5 MEETING IN NEW YORK, WE REACHED SUCH A COMPROMISE:
PRIVATE PARTIES COULD NOT SUE SOVEREIGN STATES IN THE
TRIBUNAL. THE MAIN POLITICAL ORGANS OF THE SEABED AUTHORITY
WOULD BE IMMUNE FROM SUIT, BUT PRIVATE PARTIES COULD BRING
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SUITE AGAINST THE EXPERT COMMISSIONS WHICH EXECUTE THE
ORDERS OF THE POLITICAL ORGANS.

-- WE THINK THIS COMPROMISE INVOLVES A SUBSTANTIAL
CONCESSION FROM US AND SHOULD BE RESPECTED AT THIS LATE
STAGE IN THE NEGOTIATIONS.

-- (IF RAISED). THE FACT THAT THE U.K. AND FRANCE ARE
GOING IN A DIFFERENT DIRECTION SHOULD NOT AFFECT BILATERAL
UNDERSTANDINGS BETWEEN US.

C. THE COUNCIL.

-- WE ARE NOW DRAFTING A NEW PROPOSAL ON THE COUNCIL
WHICH WE WILL SHOW THE USSR BEFORE IT IS SHOWN
TO OTHER DELEGATIONS. IT WILL INCORPORATE THE PRINCIPLE OF
WEIGHTED VOTING AND USE A HIGH MAJORITY FOR ART. 9 (ECONOMIC)
DECISIONS AND FOR THE DISAPPROVAL OF CONTRACTS (WE WEEK
TO AMEND THE REVISED SNT SO THAT A CONTRACT FOR EXPLOITATION
WILL BE AUTOMATICALLY APPROVED UNLESS DISAPPROVED BY THE
COUNCIL). ON ALL OTHER DECISIONS OF SUBSTANCE, WE WOULD ALSO
USE WEIGHTED VOTING, BUT WITHOUT AS HIGH A MAJORITY.

-- IN OUR PROPOSAL, WE WILL TRY TO MAXIMIZE SOCIALIST
COUNTRY PARTICIPATION IN THE COUNCIL, BUT WE DO NOT SEE HOW
THE SOCIALIST COUNTRIES CAN EXPECT 6 SEATS OUT OF 36.
WE THINK 4 SEATS WOULD BE THE MAXIMUM THAT COULD BE GUARANTEED.

-- ON MY RETURN TO NEW YORK LATER IN THE SESSION, I INTEND
TO DEVOTE A SUBSTANTIAL PART OF MY TIME TO DISCUSSIONS ON
THIS VITAL QUESTION, AND I WILL INSTRUCT THE US DELEGATION
TO COMMUNICATE YOUR REACTIONS TO OUR COUNCIL PROPOSAL DIRECTLY

TO ME.

COMMITTEE II.

-- THE FACT THAT THE COMMITTEE II TEXT IS A RELATIVELY GOOD ONE IS A TESTAMENT TO CLOSE AND EFFECTIVE U.S.-SOVIET COOPERATION OVER MANY YEARS. WHILE WE WORK SEPARATELY OUR EFFORTS MUST BE CLOSELY COORDINATED.

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-- HOWEVER, THE BATTLE IS NOT OVER. WE MUST WORK TOGETHER TO PROTECT THE HIGH SEAS STATUS OF THE ECONOMIC ZONE. WE CAN DO BETTER THAN A SIMPLE DELETION OF THE DEFINITION OF THE HIGH SEAS.

-- WE MUST WORK TOGETHER TO PROTECT THE STRAITS ARTICLES. IF A BAD FIGHT DEVELOPS IN THE CONFERENCE RELATED TO MIDDLE EAST PROBLEMS, IT CAN WRECK THE STRAITS ARTICLES AND THE ENTIRE TREATY. BOTH OF US HAVE A MAJOR RESPONSIBILITY TO PREVENT THIS FROM HAPPENING.

-- (IF ASKED). WE BELIEVE COASTAL STATE JURISDICTION OVER THE ENTIRE CONTINENTAL MARGIN COUPLED WITH REVENUE-SHARING BEYOND 200 MILES IS THE ONLY REALISTIC SOLUTION. WE DO NOT BELIEVE THE BROAD MARGIN STATES (E.G., INDIA, CANADA, AUSTRALIA, UK, ARGENTINA) WOULD ACCEPT A 500-METER DEPTH LIMIT.

COMMITTEE III.

-- ON SCIENTIFIC RESEARCH, WE SIMPLY CANNOT SUPPORT THE REVISED TEXT. IT IS TOO COASTALLY ORIENTED AND MUST BE SUBSTANTIALLY AMENDED. THE GENERAL CONSENT CONCEPT MUST BE ELIMINATED, AND CONSENT REQUIRED ONLY FOR A FEW CLEARLY-SPECIFIED CATEGORIES SUCH AS RESOURCE-ORIENTED RESEARCH.

-- WE REGARD THIS ISSUE AS PART OF A MORE COMPLEX ISSUE THAT INCLUDES THE HIGH SEAS STATUS OF THE ECONOMIC ZONE AND THE APPLICATION OF DISPUTE SETTLEMENT PROCEDURES TO SCIENTIFIC RESEARCH AND THE ECONOMIC ZONE. THE ECONOMIC ZONE IS COMING PERILOUSLY CLOSE TO A SECURITY ZONE AND A TERRITORIAL SEA. THIS IS INIMICAL TO OUR MUTUAL INTERESTS.

-- OUR SCIENTIFIC COMMUNITY HAS TOLD US THAT THEY WILL OPPOSE RATIFICATION OF THE TREATY IF MAJOR CHANGES ARE NOT MADE TO THE REVISED TEXT. THEY COULD CONVINCE THE ENTIRE ACADEMIC COMMUNITY TO OPPOSE THE TREATY, AND THAT COULD BE FATAL.

-- OUR THIRD COMMITTEE REPRESENTATIVE HAS GIVEN YOUR REPRESENTATIVE A COPY OF OUR AMENDMENTS AND DISCUSSED

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THEM WITH HIM. WE WILL TRY TO GET THESE AMENDMENTS INTO THE NEGOTIATION BUT IT MAY BE COUNTER-PRODUCTIVE FOR US TO PROPOSE THEM DIRECTLY.

-- THE REALITY OF THE CONFERENCE IS THAT THE MAJORITY OF COASTAL STATES WANT AS MUCH JURISDICTION AS THEY CAN GET. IF ONE OF THE TWO OF US SUPPORTS THEM, THEY REGARD THE ISSUE AS CLOSED. THE US HAS BEEN VERY CAREFUL TO RETAIN THE MAJORITY ON ISSUES SUCH AS FISHERIES AND POLLUTION IN THE ECONOMIC ZONE WHEN IT APPEARED THEY WOULD DEMAND MORE THAN YOU COULD ACCEPT, DESPITE THE FACT THE U.S. IS MORE COASTALLY ORIENTED ON THESE ISSUES. THE SITUATION IS NOW REVERSED ON SCIENTIFIC RESEARCH. IF THE SOVIET UNION PUBLICLY OR PRIVATELY OPPOSES OUR EFFORTS TO AMEND THE SCIENTIFIC RESEARCH TEXT, YOU WILL HAVE INDUCED THE MAJORITY NOT TO NEGOTIATE WITH US.

MARINE POLLUTION. (IF ASKED).

-- WE DO NOT SUPPORT RESTRICTIONS ON THE RIGHT OF COASTAL STATE TO ESTABLISH REGULATIONS TO CONTROL VESSEL POLLUTION IN THE TERRITORIAL SEA (OUTSIDE STRAITS). WE FEEL THAT THE REQUIREMENT NOT TO HAMPER INNOCENT PASSAGE IS ADEQUATE PROTECTION FOR NAVIGATION INTERESTS. NO SUCH RESTRICTION EXISTS IN THE TERRITORIAL SEA CONVENTION, TO WHICH WE ARE BOTH PARTIES.

-- WE UNDERSTAND THE LOGIC OF SOVIET ARGUMENTS, BUT HAVE POLITICAL PROBLEMS. SINCE THE TWO OF US ARE COMPLETELY AGREED THAT THE COASTAL STATE SHOULD NOT HAVE STANDARD-SETTING POWERS OUTSIDE THE TERRITORIAL SEA OR IN STRAITS, THE EFFECT ON NAVIGATION OF THE U.S. POSITION IS REALLY NOT GREAT.

-- SINCE THE REST OF THE REVISED TEXT ON POLLUTION SEEMS TO BE GENERALLY ACCEPTABLE IN PRINCIPLE, I HOPE THAT WE CAN SETTLE THIS QUESTION QUICKLY.

DISPUTE SETTLEMENT.

-- WE ARE HAPPY TO SEE THE SOVIET UNION SUPPORTING
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OBLIGATORY DISPUTE SETTLEMENT LEADING TO A BINDING DECISION. WHATEVER OUR TRADITIONAL ATTITUDES, IT IS CLEAR THAT BINDING DISPUTE SETTLEMENT ON THE LAW OF THE SEA IS NECESSARY TO PROTECT OUR MUTUAL INTERESTS AS MARITIME NATIONS AND TO PREVENT COASTAL STATES FROM INTERPRETING THEIR RIGHTS TOO

BROADLY.

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INFO OCT-01 ISO-00 SSO-00 /026 W

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC IMMEDIATE 8591

S E C R E T SECTION 4 OF 5 USUN 3172

STADIS////////////////////////////////////

EXDIS

--WE MUST NOT ALLOW EXCEPTIONS TO THE PRINCIPLE OF
OBLIGATORY SETTLEMENT TO UNDERMINE OUR OBJECTIVES AS
MARITIME NATIONS ESPECIALLY WITH RESPECT TO THE
ECONOMIC ZONE. WITHOUT IT, COASTAL STATES WILL HAVE A
FREE HAND, AND EACH OF US WILL FACE THE SAME DILEMMAS
WITH A TREATY THAT WE FACE NOW.

JAPAN

YOUR MEETING WITH JAPANESE HEAD OF DELEGATION FUJISAKI

PARTICIPANTS

U.S. JAPAN

SECRETARY FUJISAKI

MAW OGISO

LEARSON

OXMAN

NOTETAKER

CHECKLIST:

CTE. I - STRESS IMPORTANCE OF NON-DISCRIMINATORY
ACCESS TO SEABED MINERALS.

CTE. II - URGE SUPPORT FOR HIGH SEAS STATUS OF
ECONOMIC ZONE.

SECRET

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CTE. III - URGE ACCEPTANCE OF COASTAL STATE RIGHT TO
SET VESSEL POLLUTION REGULATIONS IN TERRITORIAL SEA.

DISPUTE SETTLEMENT -URGE ACCEPTANCE OF LOS TRIBUNAL
AS ONE ALTERNATIVE PROCEDURE.

JAPAN

BACKGROUND:

COMMITTEE I

JAPANESE POSITIONS IN COMMITTEE I HAVE ALWAYS BEEN MILD AND TEND TO FOLLOW THE GROUP OF 5. THE JAPANESE DO NOT TAKE THE LEAD IN THE COMMITTEE AND TEND TO KEEP A FAIRLY LOW PROFILE. ON VIRTUALLY ANY ISSUE IN COMMITTEE I, THE JAPANESE CAN BE EXPECTED TO FALL INTO LINE WHEN THE U.S. AND THE SOVIET UNION AGREE. THERE IS ONE ISSUE, HOWEVER, ON WHICH THE JAPANESE FEEL STRONGLY ENOUGH TO TAKE THEIR CASE TO THE COMMITTEE AS A WHOLE. THEY BELIEVE THERE SHOULD BE A SPECIAL ARRANGEMENT FOR COUNTRIES HEAVILY DEPENDENT ON IMPORTS OF RAW MATERIALS. IN THEIR VIEW, THESE SPECIAL ARRANGEMENTS SHOULD INCLUDE SOME TYPE OF QUOTA OR ANTI-DOMINANT PROVISION WHICH THEY WOULD BE PREPARED TO GIVE UP IF WE WOULD AGREE THAT, IN CASES OF COMPETING APPLICATIONS FOR CONTRACTS FOR THE SAME AREA AND CATEGORY OF MINERALS, PREFERENTIAL ACCESS WOULD BE GIVEN TO IMPORTING COUNTRIES.

WE HAVE TOLD JAPAN, AS HAVE THE OTHER MEMBERS OF THE GROUP OF 5, THAT WE ARE SEEKING NON-DISCRIMINATORY ACCESS. WE BELIEVE THAT, IF THE DOOR IS OPEN IN THE TREATY FOR PREFERENTIAL ACCESS FOR SPECIAL INTERESTS OF HIGHLY INDUSTRIALIZED COUNTRIES LIKE JAPAN, THERE IS PROBABLY NO END TO THE LIST OF DEMANDS FOR PREFERENTIAL ACCESS THAT WILL BE MADE BY OTHER COUNTRIES WHO SEE THEMSELVES AS EVEN MORE DESIRING THAN THE JAPANESE.

COMMITTEE II

SECRET

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THE MAJOR PRE-OCCUPATION OF THE JAPANESE DELEGATION AT THIS TIME IS FOCUSED ON THE BILATERAL FISHERIES PROBLEM WITH THE U.S.; THIS IS NOT A LOS CONFERENCE ISSUE AS SUCH. AMB. FUJISAKI, HOWEVER, MAY RAISE THIS ISSUE WITH YOU. JAPAN IS SEEKING ASSURANCES THAT THE U.S. WILL EXERCISE FLEXIBILITY IN ENFORCING THE 200-MILE FISHERIES LAW AGAINST THEM. THEY HAVE BEEN TOLD THAT THERE IS LITTLE FLEXIBILITY IN THE LAW AND THAT THERE IS NO LIKELIHOOD THAT ITS EFFECTIVE DATE COULD BE POSTPONED. COMMENTS IN THIS REGARD, HOWEVER, HAVE BEEN KEPT LOW KEY SINCE JAPAN HAS BEEN HIGHLY AGITATED OVER THE ISSUE.

JAPAN MAY ALSO RAISE THE CONTINENTAL SHELF ISSUE. HOWEVER, THE OPPOSE THE INCLUSION OF AN ALTERNATIVE THICKNESS OF SEDIMENT TEST IN THE CANADA-IRELAND PROPOSAL, WHICH WE CAN SUPPORT, AND WHICH IS NECESSARY TO SATISFY THE BROAD MARGIN STATES. WE SUSPECT THAT JAPAN'S PREOCCUPATIONS RELATE TO THE PROBLEM OF DIVIDING THE EAST CHINA SEA SHELF WITH THE PRC. THE MORE "GEOLOGICAL" THE DEFINITION, THE STRONGER CHINESE ARGUMENTS MAY BE THAT ALL OF THE EAST CHINA SEA SHELF SHOULD GO TO CHINA. THEIR PREFERENCE IS AN OUTER LIMIT OF 200 MILES, WITH NO COASTAL STATE JURISDICTION BEYOND.

JAPAN SHOULD BE MORE ACTIVE IN ITS SUPPORT FOR ISSUES AGREED UPON BY THE MARITIME POWERS. THEY HAVE BEEN QUICK TO AGREE IN MANY RESPECTS, BUT RETICENT TO GIVE US PUBLIC SUPPORT.

COMMITTEE III.

JAPAN HAS SUPPORTED US IN OPPOSING A GENERAL COASTAL STATE CONSENT REGIME AND IN SEEKING TO LIMIT THE CONSENT REQUIREMENT TO A FEW CLEARLY-SPECIFIED CATEGORIES OF SCIENTIFIC RESEARCH. THEY OPPOSE THE REVISED TEXT ON SCIENTIFIC RESEARCH. JAPAN, HOWEVER, IS NOT WILLING TO FIGHT HARD ON THIS ISSUE AND SEEMS WILLING TO CONCEDE IT TO THE DEVELOPING COUNTRIES IN HOPES OF PROTECTING JAPANESE INTERESTS ON OTHER ISSUES.

JAPAN ADVOCATES MAJOR RESTRICTIONS ON THE COASTAL STATE
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RIGHT TO ESTABLISH REGULATIONS REGARDING VESSEL POLLUTION IN THE TERRITORIAL SEA. THEY ARGUE THAT SUCH REGULATIONS SHOULD NOT AFFECT THE CONSTRUCTION, DESIGN, EQUIPMENT, AND MANNING OF VESSELS. THE U.S. OPPOSES SUCH RESTRICTIONS, ARGUING THAT THE TREATY REQUIREMENT THAT REGULATIONS NOT HAMPER INNOCENT PASSAGE, IS ADEQUATE PROTECTION FOR NAVIGATION.

DISPUTE SETTLEMENT.

JAPAN SUPPORTS THE PRINCIPLE OF COMPULSORY DISPUTE SETTLEMENT WITH HEAVY EMPHASIS ON THE INTERNATIONAL COURT OF JUSTICE AS THE FORUM OF PRIMARY IMPORTANCE. OUR CONCERN IS THAT THE LDC'S WILL NOT ACCEPT THE I.C.J. AS A PRIMARY FORUM, AND MAY OPPOSE COMPULSORY DISPUTE SETTLEMENT COMPLETELY IF IT APPEARS THAT THE I.C.J. WILL EMERGE AS THE PRIMARY FORUM. JAPAN'S VIEWS ON THE EXCEPTIONS TO DISPUTES RELATING TO THE ECONOMIC ZONE ARE SIMILAR TO OURS, ALTHOUGH THE JAPANESE ARE VERY CONCERNED WITH ENSURING THAT FISHERIES DISPUTES ARE SUBJECT TO COMPULSORY PROCEDURES.

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ACTION SS-25

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TALKING POINTS:

COMMITTEE I.

-- WE FEEL THAT JAPAN, WHICH HAS ADVANCED TECHNOLOGY
IN OCEAN MINING, WILL HAVE NO DIFFICULTY GETTING ACCESS
TO THE SEABED RESOURCES ON A FAIR AND COMPETITIVE BASIS UNDER
THE EXISTING PROVISIONS OF THE REVISED SNT.

-- WE KNOW JAPAN FEELS THAT COUNTRIES HEAVILY DE-
PENDENT ON IMPORTS OF RAW MATERIALS SHOULD BE GIVEN SPECIAL
TREATMENT BY THE SEABED AUTHORITY. HOWEVER, WE ARE CON-
CERNED THAT, IF SUCH AN APPROACH WERE TO FIND ITS WAY
INTO THE NEGOTIATIONS, THERE WOULD BE NO PLACE TO DRAW THE
LINE AND THE PRINCIPLE OF NON-DISCRIMINATORY ACCESS COULD
BE DESTROYED. IF THIS HAPPENED, IT WOULD MAKE IT VERY
DIFFICULT FOR THE U.S. TO SIGN THE TREATY.

COMMITTEE II.

-- THE COMMITTEE II TEXT IS A RELATIVELY GOOD ONE. OUR
CLOSE COOPERATION ON THESE AND OTHER ISSUES HAS BEEN
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FRUITFUL. YOUR ACTIVE SUPPORT ON ISSUES OF CONCERN TO
MAJOR MARITIME POWERS IS IMPORTANT.

-- HOWEVER, THE BATTLE IS NOT OVER. WE MUST WORK
TOGETHER TO PROTECT THE HIGH SEAS STATUS OF THE ECONOMIC

ZONE. WE CAN DO BETTER THAN A SIMPLE DELETION OF THE DEFINITION OF THE HIGH SEAS.

-- (IF ASKED). WE BELIEVE THAT COASTAL STATES JURISDICTION OVER THE ENTIRE CONTINENTAL MARGIN, COUPLED WITH REVENUE-SHARING BEYOND 200 MILES IS THE ONLY REALISTIC SOLUTION. THE DEFINITION OF THE OUTER EDGE OF THE MARGIN REMAINS A DIFFICULT TECHNICAL ISSUE.

-- (IF ASKED). I UNDERSTAND OUR NEGOTIATORS WILL MEET LATER THIS MONTH TO BEGIN BILATERAL NEGOTIATIONS ON FISHERIES. THIS WILL BE DIFFICULT NEGOTIATION. WE UNDERSTAND AND SYMPATHIZE WITH THE NEEDS OF YOUR PEOPLE FOR FOOD AND OF YOUR FISHERMEN FOR THEIR FISHERIES. I DO NOT THINK THE IMPLEMENTATION OF OUR LAW WILL BE DELAYED.

COMMITTEE III.

-- SCIENCE

-- I AM EXTREMELY CONCERNED WITH THE REVISED TEXT ON MARINE SCIENTIFIC RESEARCH.

-- AS YOU KNOW, WE FEEL THE REVISED TEXT IS MUCH TOO COASTALLY ORIENTED AND THAT THE GENERAL CONSENT CONCEPT MUST BE ELIMINATED.

-- I KNOW THAT WE HAVE WORKED TOGETHER ON THIS ISSUE IN THE PAST AND HOPE THAT YOU CAN SUPPORT US AT THIS SESSION.

POLLUTION (IF RAISED)

-- THE U.S. CONTINUES TO OPPOSE RESTRICTIONS ON THE COASTAL STATE RIGHT TO REGULATE AND CONTROL VESSEL POLLUTION IN THE TERRITORIAL SEA.

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-- WE CONTINUE TO BELIEVE THAT THE TREATY REQUIREMENT THAT SUCH REGULATIONS NOT HAMPER INNOCENT PASSAGE IS ADEQUATE PROTECTION FOR NAVIGATION.

DISPUTE SETTLEMENT.

-- THE MAIN OBJECTIVE BOTH OF US HAVE IS THE INCLUSION OF BINDING DISPUTE SETTLEMENT PROCEDURES. THE NATURE OF THE PROCEDURES IS OF LESSER IMPORTANCE.

-- WE BELIEVE JAPAN IS MAKING A SERIOUS ERROR IN PRESSING TOO STRONGLY FOR THE INTERNATIONAL COURT AND TOO HARD AGAINST A NEW LAW OF THE SEA TRIBUNAL. THE EFFECT COULD BE TO WEAKEN OUR ABILITY TO OBTAIN ANY BINDING

DISPUTE SETTLEMENT.

-- WE THINK THE BEST APPROACH IS TO PREVERVE THE
RIGHT OF THE DEFENDANT TO CHOSE ITS FORUM, AND WORK TO
IMPROVE THE COMPOSITION OF THE LAW OF THE SEA TRIBUNAL.
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Message Attributes

Automatic DecapTIONing: Z
Capture Date: 30 AUG 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 10 AUG 1976
DecapTION Date: 28 MAY 2004
DecapTION Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976USUNN03172
Document Source: ADS
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: 11652 EXEMPT GDS
Errors: n/a
Film Number: n/a
From: USUN NY
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197608101/baaabavu.tel
Line Count: 819
Locator: TEXT ON-LINE
Office: n/a
Original Classification: SECRET
Original Handling Restrictions: EXDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 15
Previous Channel Indicators:
Previous Classification: SECRET
Previous Handling Restrictions: EXDIS
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 17 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <17 MAY 2004 by greeneet>; APPROVED <09 SEP 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: n/a
TAGS: PLOS
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006